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JOINT POSITION BY

ABBOTT LABORATORIES,

AMERICAN HOME PRODUCTS CORPORATION &

BRISTOL-MYERS COMPANY

CONCERNING THE WORLD HEALTH ORGANIZATION'S PROPOSED INTERNATIONAL MARKETING CODE FOR BREASTMILK SUBSTITUTES.

PREPARED MARCH, 1981

RICHARD L. THOMPSON
DIRECTOR, WASHINGTON AFFAIRS
TEL: (202) 659-8524

ABBOTT LABORATORIES, 1730 M STREET, N.W., SUITE 808
WASHINGTON, D. C. 20036

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For well over a year the U. S. Infant Formula Companies have worked diligently to cooperate with the Secretariats of the World Health Organization and UNICEF in their efforts to develop an international code that would guide the marketing of infant formula.

The process began as a result of recommendations made following the WHO/UNICEF "Meeting on Infant and Young Child Feeding" held in October 1979. A key principle embodied in those recommendations was that the marketing of infant formula should not discourage breastfeeding. The three companies actively participated in that meeting and are in full agreement with this principle.

However, the fourth draft "International Code of Marketing of Breastmilk Substitutes" recently endorsed by the WHO's Executive Board is a serious distortion of the original intent. Rather than providing general guidelines to follow in marketing infant formula -- as recommended by the United States Government, the proposed Code is a set of highly specific and restrictive rules that would virtually eliminate legitimate competition and promotion of infant formula products even to the medical community. The proposed Code is punitive in tone, anti-competitive in effect and arbitrary in conception. As a result, none of the American companies can endorse the Code which the WHO Executive Board has recommended for adoption by the World Health Assembly in May.

We strongly believe the United States delegation to the Thirty-fourth World Health Assembly should vote against adoption of the present draft with its accompanying draft resolution, either as a recommendation or as a regulation, for the following reasons:

1. The Code imposes a point of view on all countries, regardless of local cultures, conditions or need. Conditions of sanitation, literacy and standard of living are totally different in developed and developing countries. The present draft ignores this fact.

2. There is no evidence that marketing practices are linked with declines in breastfeeding. WHO's own Collaborative Study on Breastfeeding involving 23,000 mothers in nine diverse countries failed to reveal that such a restrictive and prohibitive code was warranted.

3. In spite of assertions that the present Code would be adopted as a recommendation and therefore would not be binding on Member States, the potential for the Code's transformation into binding regulation is clearly implied in the United Nation release dated January 28, 1981, which states:

"The Director-General of WHO would be requested to report to the thirty-sixth World Health Assembly, in 1983, on the status of compliance with an implementation of the Code at [illegible] country, regional and global levels, and to make proposals, if necessary, for the revision of the Code, including measures for its effective application."

4. The draft resolution (EB/67 Conf..paper No. 7) effectively converts the proposed Code from a voluntary to a mandatory code by making it "a minimum requirement" and one to be implemented "in its entirety as an expression of the collective will...of the World Health Organization" calling for its translation into "legislation, regulations or other suitable measures" without any regard for the fundamental differences in prevailing conditions among countries.

5. The United Nations system should never be allowed to become a vehicle for imposing laws on the U.S. in disregard of our nation's legislative process. This Code represents an attempt to usurp the proper role of sovereign nations.

6. The several provisions of the Code which are designed arbitrarily and severely to restrict, or absolutely to prohibit, legitimate commercial activities are fundamentally contrary to many important principles and ideals which the United States cherishes and which are given very clear constitutional and legislative protection.

7. The Code's limitation on the development and dissemination of information about infant feeding, even through the health profession, could have negative consequences. The industry has made a significant contribution in the realm of nutrition and health education of mothers through professional channels.

8. The Code attempts to impose inflexible, unworkable and unwarranted restraints on the marketing of a product whose worth has been proved over decades of use. Numerous studies and considerable experience document the fact that infant formulas support normal growth and development. Scientifically prepared infant formulas have been used successfully in the United States and other countries for over 65 years to supplement or replace breastmilk when breastfeeding is not possible or is insufficient or when mothers elect not to breastfeed.

We are concerned that the Code will be exploited primarily for publicity and propaganda purposes. Even though it may be adopted as a voluntary or recommended Code, it is clear that in areas where industry or governments disagree, they will be accused of circumventing a Code which carries all the moral suasion implied by the support of all or the vast majority of the world's governments. If the U.S. delegation votes in favor of the Code, it will allow itself to be used in the propaganda campaign which will ensue. If the delegation abstains, the effect will be the same.

Abbott Laboratories, American Home Products, and Bristol-Myers urge that the United States vote no at the World Health Assembly in May. We further urge that a strong statement be made in order that U.S. objections are clearly understood.